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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,094	10/03/2003	James Bennett	102USBB02	3545

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CHICAGO, IL 60661

EXAMINER
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HOPKINS, CHRISTINE D

ART UNIT	PAPER NUMBER
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3735

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/679,094	<b>Applicant(s)</b> BENNETT, JAMES	
	<b>Examiner</b> Christine D. Hopkins	<b>Art Unit</b> 3735	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sedaros (U.S. Patent No. 6,004,259). Sedaros discloses an invention comprising an audio device that may be activated manually or by voice to generate the sound of a mother. With respect to claims 1 and 2, Sedaros teaches a doll, or “toy” (col. 1, lines 34-37), that may receive a “triggering event” such as the crying of a baby and subsequently generates a sound and plays sounds of the mother to induce a calming effect on the child (col. 1, lines 56-61).

In reference to claim 3, Sedaros teaches subsequent normal operation mode if the crying persists after the predetermined six minute interval. Hence, the child will be exposed to an additional six minutes of playback as determined by the invention when he continues to cry. In view of claims 4-6, the “triggering event” can be manual, as in continuous playback (col. 1, lines 60-61) by activation of a switch (col. 2, lines 45-49), or automatic as activated by a signal from the child’s crying to a microphone (col. 2, lines 23-26).

With respect to claims 7 and 9-10, the operating mode of Sedaros is that of a heartbeat and miscellaneous sounds captured when the mother pre-records into a microphone located on the device (col. 3, lines 25-30) into memory (col. 1, lines 8-13). In view of claim 8, the volume and pitch may be controlled via the volume control (col. 3, lines 6-10).

With reference to claims 11 and 12, the device of Sedaros contains a processing circuit that receives the "triggering event" from the child's voice and controls playback of a sound pre-recorded by the mother (col. 2, lines 21-23) and further comprises an audio output to generate the sound (col. 3, lines 6-10).

In view of claim 13, if the baby's crying persists, the device of Sedaros will be reactivated by the pulses received from the crying and continue in normal operation mode. Furthermore, the device may operate in a continuous On mode (col. 2, lines 45-46) or in a standby mode (col. 4, lines 8-11).

In reference to claims 14-16, the "triggering event" as taught by Sedaros can be manual, as in continuous playback (col. 1, lines 60-61) by activation of a switch (col. 2, lines 45-49), or automatic as activated by a signal from the child's crying to a microphone (col. 2, lines 23-26) to proceed in normal operation mode. Furthermore, in view of claim 17, the operating mode of Sedaros is that of a heartbeat and miscellaneous sounds captured when the mother pre-records into a microphone located on the device (col. 3, lines 25-30).

With respect to claim 18, the device of Sedaros also contains a timer (col. 2, lines 33-34) and a volume control (col. 3, lines 6-10). Furthermore, in view of claim 19, it

contains a memory (col. 1, lines 8-13) for storing the sound generated by the microphone and at any subsequent point for playback (col. 2, lines 66-67 and col. 3, lines 1-10).

In reference to claim 20, the device of Sedaros comprises a switch coupled to the processing circuit for mode operation (col. 2, lines 45-49); a timer (col. 2, lines 33-34) and a volume control (col. 3, lines 6-10); an audio output and speaker for generating the mother's pre-recorded sounds (col. 3, lines 1-10) and a microphone for recording the sounds (col. 3, lines 25-30) stored in memory (col. 1, lines 8-13).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,692,330 to Kulick discloses an infant toy that generates sounds pre-recorded by a mother for inducing a calming effect.

U.S. Pub. No. 2002/0120176 to Coviello discloses a device for recording and playing back sounds of a beating heart for soothing babies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine D. Hopkins whose telephone number is (571) 272-9058. The examiner can normally be reached on Monday-Friday, 7 a.m.-3:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*CDH*

Christine D Hopkins  
Examiner  
Art Unit 3735

*Charles A Marmor, II*  
Charles A Marmor, II  
SPE, Art Unit 3735